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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/693,068	10/23/2003	Graham Sommer	STFUP145/S03-109	2220
58766	7590	03/23/2010		
Beyer Law Group LLP P.O. BOX 1687 Cupertino, CA 95015-1687			EXAMINER LAMPRECHT, JOEL	
			ART UNIT 3737	PAPER NUMBER
			NOTIFICATION DATE 03/23/2010	DELIVERY MODE ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

USPTOmail@beyerlaw.com

Office Action Summary

Application No.

10/693,068

Applicant(s)

SOMMER, GRAHAM

Examiner

JOEL M. LAMPRECHT

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Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 January 2010.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 10-14, 16 and 17 is/are allowed.
- 6) ☒ Claim(s) 1 and 7-10 is/are rejected.
- 7) ☒ Claim(s) 2-6 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB-08)
- 4) ☐ Interview Summary (PTO-413)
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____
- Paper No(s)/Mail Date _____

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DETAILED ACTION

Continued Examination Under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 1/19/2010 has been entered.

Response to Amendment

The affidavit filed on 1/19/2010 under 37 CFR 1.131 is sufficient to overcome the rejection of record.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 7, 8 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bentley et al (Measurement of Renal Perfusion and Blood Flow with FCT) in view of Lerman et al (Review of x-ray imaging to study renal function). Bentley et al disclose a method for measurement of renal function with

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CT using CT number acquisitions, contrast media injections including iodinated contrast, and performing calculations (including mean intensity and pre-injection data) on relative intensity to determine renal function from the CT data (945-947).

Bentley et al disclose what is listed above, and specifically measure flow, but comparative numbers in the 'arterial blood' and 'venous blood' aren't specifically mentioned. Attention is turned to pp403 of Lerman et al describing filtering measurements based on arterial and venous measurements of renal function using different radiographic contrast agents. It would have been obvious to one of ordinary skill in the art to use measurements from both arterial and venous blood to compare the filtered contrast (or other material) on one side of the kidney to the other (pp403 Lerman).

Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Bentley et al, in view of Lerman et al as applied to claim 1 above and in further view of Quinn et al (Gd-DTPA: An alternative contrast medium for CT). As can be inferred from the title of the teaching reference, Bentley et al in view of Lerman et al do not specifically disclose the use of Gd-DTPA as a contrast agent for renal assessment procedures with CT. Attention is directed to the teaching reference to Quinn et al which teaches that Gd-DTPA can substitute for iodine-based compounds in CT imaging (Abstract). It would have been obvious to one of ordinary skill in the art at the time of the invention to have used Gd-DTPA in place of iodinated contrast agents at least in patients who are sensitive to iodine (Conclusion)

Response to Arguments/Allowable Subject Matter

Applicant's arguments with respect to the claims have been considered but are moot in view of the new ground(s) of rejection.

Claims 10-14, 16 and 17 are allowed.

Claims 2-6 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Extraction fraction is repeatedly measured in the prior art by MRI methods, but these methods do not appear to be directly related to the methods performed under CT imaging disclosed herein. References to Hackstein (Journal of MRI), Niendorf et al (Radiology 1998), and the previously mentioned article to Coulam et al (Radiology 2002) all disclose MRI-based methods for extraction fraction, but the math appears to differ in the methods to acquire EF for inulin or any sort of contrast agent (Gd-DTPA being the most common) as T1 is used for EF calculations rather than direct intensity relationships.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JOEL M. LAMPRECHT whose telephone number is (571)272-3250. The examiner can normally be reached on 8:30-5:00 Monday - Friday.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Brian L. Casler can be reached on (571) 272-4956. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/BRIAN CASLER/
Supervisory Patent Examiner, Art
Unit 3737

JML